

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KEVIN MERTENS,

Plaintiff,

v.

CITY OF SEATTLE, STATE OF
WASHINGTON.

Defendants.

No. C04-1476P

ORDER DENYING PLAINTIFF'S
MOTION FOR APPEAL BY
PERMISSION

This matter comes before the Court on Plaintiff's Motion for Appeal by Permission. (Dkt. No. 39). The Court DENIES Plaintiff's motion to certify an interlocutory appeal in this matter because the motion is moot. Plaintiff Mertens is seeking permission to appeal this Court's April 8, 2005 Order dismissing the case against the State of Washington. (Dkt. No. 23). Plaintiff points out that because there is still a live cause of action against the City of Seattle in this matter, he cannot make an appeal without this Court's permission. However, this action against the State of Washington has been properly dismissed and a final judgment in the matter against the State of Washington has been entered (Dkt. No. 45). Therefore, there is no need for this Court to certify an interlocutory appeal concerning the dismissal of the State of Washington from this case. The Clerk is directed to send copies of this order to all counsel of record.

Dated: August 19th, 2005.



Marsha J. Pechman
United States District Judge